

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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 DWAYNE SMITH, :  
 :  
 Plaintiff, :  
 :  
 -against- :  
 WHOLE FOODS MARKET, INC.,, :  
 :  
 Defendant. :  
 :  
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USDC SDNY  
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ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 11/16/2021

1:21-cv-5497-GHW

ORDER

GREGORY H. WOODS, United States District Judge:

By report dated November 16, 2021, the mediator informed the Court that the parties represented that this case has settled. Accordingly, it is hereby ORDERED that this action be conditionally discontinued without prejudice and without costs; provided, however, that within thirty (30) days of the date of this Order, the parties may submit to the Court their own Stipulation of Settlement and Dismissal.<sup>1</sup> Otherwise, within such time Plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event that the settlement is not consummated. Upon such application for reinstatement, the parties shall continue to be subject to the Court's jurisdiction, the Court shall promptly reinstate the action to its active docket, and the parties shall be directed to appear before the Court, without the necessity of additional process, on a date within ten (10) days of the application, to schedule remaining pretrial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event that Plaintiff has not requested restoration of the case to the active calendar within such 30-day period.

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<sup>1</sup> As explained in Rule 4(E) of the Court's Individual Rules of Practice in Civil Cases, the Court will not retain jurisdiction to enforce confidential settlement agreements. If the parties wish that the Court retain jurisdiction to enforce the agreement, the parties must place the terms of their settlement agreement on the public record.

The Clerk of Court is further directed to terminate all pending motions, adjourn all remaining dates, and to close this case.

SO ORDERED.

Dated: November 16, 2021  
New York, New York

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GREGORY H. WOODS  
United States District Judge